[1][(*3A*) Where the District Magistrate authorised under sub-section (*3*) withdraws any case from any Magistrate subordinate to him, he may inquire into or try such case himself or refer it for inquiry or trial to any other Magistrate subordinate to him and competent to inquire into or try the same.]

[2][(*4*) Any Magistrate may recall any case made over by him under section 192, sub-section (*2*), to any other Magistrate and may inquire into or try such case himself.]

[3][(*5*)] A Magistrate making an order under this section shall record in writing his reasons or making the same.

(*6*) The head of a village under the Madras Village Police Regulation, 1816, or the Madras Village Police Regulation, 1821, is a Magistrate for the purposes of this section.

[4][(*6*) *For the purposes of this section, a Police patel appointed under section 5 of the Bombay Village Police Act, 1867, shall be a Magistrate subordinate to the District Magistrate.*]

Bom. VIII of 1867.

[*CHAPTER XLIVA—Supplementary provisions relating to European and Indian British Subjects and others.*] *Repealed by the Criminal Law (Removal of Racial Discriminations Act, 1949 (XVII of 1949), s. 3 (with effect from the 6th April 1949).*

CHAPTER XLV.

OF IRREGULAR PROCEEDINGS.

Irregularities which do not vitiate proceedings.

529. If any Magistrate not empowered by law to do any of the following things, namely:—

(*a*) to issue a search warrant under section 98;

(*b*) to order, under section 155, the police to investigate an offence;

(*c*) to hold an inquest under section 176;

(*d*) to issue process, under section 186; for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits;

(*e*) to take cognizance of an offence under section 190, sub-section (*1*), clause (*a*) or clause (*b*);

(*f*) to transfer a case under section 192;

(*g*) to tender a pardon under section 337 or section 338;

(*h*) to sell property under section 524 or section 525; or

(*i*) to withdraw a case and try it himself under section 528;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities which vitiate proceedings.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:—

(*a*) attaches and sells property under section 88;

(*b*) issues a search-warrant for a letter, parcel or other thing in the Post Office, or a telegram in the Telegraph Department;

(*c*) demands security to keep the peace;

(*d*) demands security for good behaviour;

(*e*) discharges a person lawfully bound to be of good behaviour;

(*f*) cancels a bond to keep the peace;

(*g*) makes an order under section 133 as to a local nuisance;

(*h*) prohibits, under section 143, the repetition or continuance of a public nuisance;

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[1] Inserted by Bom. 8 of 1954, s. 2 and Sch. Pt. I.

[2] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 147.

[3] The original sub-sections (*1*), (*2*) and (*3*) were re-numbered (*2*), (*3*) and (*5*), respectively, *ibid.*, s. 147.

[4] Substituted for the original sub-section (*6*) by Bom. 30 of 1946, s. 2.

(*i*) issues an order under section 144 ;

(*j*) makes an order under Chapter XII ;

(*k*) takes cognizance, under section 190, sub-section (*1*), clause (*c*), of an offence ;

(*l*) passes a sentence, under section 349, on proceedings recorded by another Magistrate ;

(*m*) calls under section 435, for proceedings ;

(*n*) makes an order for maintenance ;

(*o*) revise, under section 515, an order passed under section 514 ;

(*p*) tries an offender ;

(*q*) tries an offender summarily ; or

(*r*) decides an appeal ;

his proceedings shall be void.

Proceedings in wrong place.

531. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.

When irregular commitments may be validated.

532. (*1*) If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been injured thereby, unless during the inquiry and before the order of commitment, objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority.

(*2*) If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate.

Non-compliance with provisions of section 164 or 364.

533. (*1*) If any Court, before which a confession or other statement of an accused person recorded or purporting to be recorded under section 164 or section 364 is tendered or has been received in evidence, finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded ; and, notwithstanding anything contained in the Indian Evidence Act, 1872, section 91, such statement shall be admitted if the error has not injured the accused as to his defence on the merits. I of 1872.

(*2*) The provisions of this section apply to Courts of Appeal, Reference and Revision.

534. [*Omission to give information under section 447.*] *Rep. by Act 17 of 1949, s. 3 (16).*

Effect of omission to prepare charge.

535. (*1*) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has in fact been occasioned thereby.

(2) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

Trial without jury of offences triable by jury.

[1][536. If an offence triable by a jury is tried without a jury, the trial shall not on that ground only be invalid, unless the objection is taken before the Court proceeds to record evidence in the case.]

Finding or sentence when reversible by reason of error or omission in charge or other proceedings.

537. [2]Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or on appeal or revision on account—

(*a*) of any error, omission or irregularity in the complaint, summons, warrant, [3]* proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or

[4][(*b*) of any error, omission or irregularity in the charge, including any misjoinder of charges, or]

(*c*) of the omission to revise any list of jurors [5]* * in accordance with section 324, or

(*d*) of any misdirection in any charge to a jury unless such error, omission, irregularity, [6]* or misdirection has in fact occasioned a failure of justice.

Explanation.—In determining whether any error, omission or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

[7]* * * * *

Attachment not illegal, person making same not trespasser for defect or want of form in proceedings.

538. No [8][attachment] made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of [8][attachment] or other proceedings relating thereto.

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[1] Substituted by Act 26 of 1955, s. 105, for the original.

[2] In the Sonthal Parganas, orders are not reversible on appeal or revision on technical grounds one—*see* the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 4 (VII).

[3] The word "charge" was deleted by Act 26 of 1955, s. 106 (*i*).

[4] Clause (*b*) was inserted, *ibid.*, s. 106 (*ii*).

[5] The words "or assessors" were omitted, *ibid.*, s. 106 (*iii*).

[6] The word "want" rep. by Act 18 of 1923, s. 148.

[7] The *Illustration* rep. by s. 148, *ibid.*

[8] Substituted by s. 149, *ibid.*, for "distress".